

detrimentally affect living marine resources, including marine mammals and birds, and their habitat in a significant way.

(iii) Activities to be conducted under the experimental fishing permit would be inconsistent with the intent of this section or the management objectives of the FMP.

(iv) The applicant has failed to demonstrate a valid justification for the permit.

(v) The activity proposed under the experimental fishing permit could create a significant enforcement problem.

(vi) The applicant failed to make available to the public information that had been obtained under a previously issued experimental fishing permit.

(vii) The proposed activity had economic allocation as its sole purpose.

(2) In the event a permit is denied on the basis of incomplete information or design flaws, the applicant will be provided an opportunity to resubmit the application, unless a permit is denied because experimental fishing would detrimentally affect marine resources, be inconsistent with the management objectives of the FMP, create significant enforcement problems, or have economic allocation as its sole purpose.

(e) *Terms and conditions.* The Regional Director may attach terms and conditions to the experimental fishing permit that are consistent with the purpose of the experiment, including, but not limited to:

(1) The maximum amount of each species that can be harvested and landed during the term of the experimental fishing permit, including trip limitations, where appropriate.

(2) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the experimental fishing permit.

(3) The time(s) and place(s) where experimental fishing may be conducted.

(4) The type, size, and amount of gear that may be used by each vessel operated under the experimental fishing permit.

(5) The condition that observers be carried aboard vessels operated under an experimental fishing permit.

(6) Reasonable data reporting requirements.

(7) Such other conditions as may be necessary to assure compliance with the purposes of the experimental fishing permit and consistency with the FMP objectives.

(8) Provisions for public release of data obtained under the experimental fishing permit.

(f) *Effectiveness.* Unless otherwise specified in the experimental fishing permit or superseding notification or regulation, an experimental fishing permit is effective for no longer than 1 calendar year, but may be revoked, suspended, or modified during the calendar year. Experimental fishing permits may be renewed following the application procedures in paragraph (b) of this section.

§679.7 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) *Groundfish of the GOA and BSAI—*

(1) *Federal fisheries permit.* Fish for groundfish with a vessel of the United States that does not have on board a valid Federal fisheries permit issued pursuant to §679.4.

(2) *Inseason adjustment.* Conduct any fishing contrary to notification of inseason adjustment issued under §679.25.

(3) *Observer plan.* Fish for groundfish except in compliance with the terms of an observer plan as provided by subpart E of this part.

(4) *Pollock roe.* Retain pollock roe on board a vessel in violation of §679.20(g).

(5) *Bycatch rate standard.* Exceed a bycatch rate standard specified for a vessel under §679.21(f).

(6) *Gear.* Deploy any trawl, longline, single pot-and-line, or jig gear in an area when directed fishing for, or retention of, all groundfish by operators of vessels using that gear type is prohibited in that area, except that this paragraph (a)(6) shall not prohibit:

(i) Deployment of hook-and-line gear by operators of vessels fishing for halibut during seasons prescribed in the

annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title.

(ii) Deployment of pot gear by operators of vessels fishing for crab during seasons governed by the State of Alaska.

(iii) Deployment of jig gear by operators of vessels fishing for salmon during seasons governed by the State of Alaska.

(7) *Inshore/offshore (Applicable through December 31, 1998).*

(i) Operate any vessel in more than one of the three categories included in the definition of "inshore component," in §679.2, during any fishing year.

(ii) Operate any vessel under both the "inshore component" and "offshore component" definitions in §679.2 during the same fishing year.

(8) *Fishing in Donut Hole.* Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing NMFS to issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to:

(i) Fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to §679.4 during the year for which the permit was issued.

(ii) Possess within the EEZ fish harvested from the Donut Hole on board a vessel for which a Federal fisheries permit has been issued pursuant to §679.4 during the year for which the permit was issued.

(9) *Authorized fishing gear.* Retain groundfish taken with other than authorized fishing gear as defined in §679.2, except that groundfish incidentally taken by pot gear by a vessel while participating in an open crab season governed by the State of Alaska may be retained for use as unprocessed bait on board that vessel.

(10) *Recordkeeping and reporting.* Fail to comply with or fail to ensure compliance with requirements in §679.5.

(11) *Tender vessel.* Use a catcher vessel or catcher/processor as a tender vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

(12) *Salmon donation program.* Retain or possess salmon, except as permitted to do so under the Salmon Donation Program as provided by §679.26, or as authorized by other applicable law.

(b) *Prohibitions specific to GOA—(1) Observer.* Forcibly assault, resist, impede, intimidate, or interfere with an observer placed aboard a fishing vessel pursuant to this part.

(2) [Reserved]

(3) *Halibut.* With respect to halibut caught with hook-and-line gear deployed from a vessel fishing for groundfish, except for vessels fishing for halibut as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title:

(i) Fail to release the halibut outboard a vessel's rails.

(ii) Release the halibut by any method other than—A) Cutting the gangion.

(B) Positioning the gaff on the hook and twisting the hook from the halibut.

(C) Straightening the hook by using the gaff to catch the bend of the hook and bracing the gaff against the vessel or any gear attached to the vessel.

(iii) Puncture the halibut with a gaff or other device.

(iv) Allow the halibut to contact the vessel, if such contact causes, or is capable of causing, the halibut to be stripped from the hook.

(4) *Crab, when fishing for groundfish with trawl gear.* Except for pollock by vessels using pelagic trawl gear, have on board, at any particular time, 20 or more crabs of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension, and that are caught with trawl gear when directed fishing for groundfish with trawl gear.

(c) *Prohibitions specific to BSAI—(1) Trawl gear in Zone 1.* Use a vessel to fish with trawl gear in that part of Zone 1 closed to fishing with trawl gear:

(i) In violation of §679.22(a)(1)(i) and (a)(2)(i), unless specifically allowed by NMFS as provided under §679.22(a)(1)(ii) and (a)(2)(ii).

(ii) At any time when no scientific data collection and monitoring program exists or after such program has been terminated.

(iii) Without complying fully with a scientific data collection and monitoring program.

(2) *Incidental salmon.* Discard any salmon taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until notified by a NMFS-certified observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed as provided in §679.21(c)(1).

(3) *Prohibited species.* Conduct any fishing contrary to a notification issued under §679.21.

(4) *Crab, when fishing for pollock with nonpelagic trawl gear.* Have on board at any particular time 20 or more crabs of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension, caught with trawl gear when directed fishing for pollock with nonpelagic trawl gear.

(d) *CDQ (Applicable through December 31, 1998).* (1) Participate in a Western Alaska CDQ program in violation of subpart C of this part, submit information that is false or inaccurate with a CDP application or request for an amendment, or exceed a CDQ as defined in §679.2.

(2) Operate a vessel that harvests pollock for credit to a CDQ allocation when that allocation has been fully harvested.

(e) *Moratorium on entry.* (1) Submit false or inaccurate information on a moratorium permit application or application to transfer moratorium qualification.

(2) Alter, erase, or mutilate any moratorium permit.

(3) Catch and retain a moratorium species with a vessel that has a LOA greater than the maximum LOA for the vessel.

(4) Catch and retain a moratorium species with a vessel that has received an unauthorized transfer of moratorium qualification.

(5) Catch and retain moratorium crab species or conduct directed fishing for any moratorium groundfish species with a vessel that has not been issued a valid moratorium permit, unless the vessel is lawfully conducting directed fishing for sablefish under subparts C and D of this part.

(6) Catch and retain moratorium crab species or conduct directed fishing for any moratorium groundfish species with a vessel that does not have a valid moratorium permit on board, unless the vessel is lawfully conducting directed fishing for sablefish under subparts C and D of this part.

(f) *IFQ fisheries.* (1) Fail to submit, or submit inaccurate information on, any report, application, or statement required under this part.

(2) Intentionally submit false information on any report, application, or statement required under this part.

(3) Retain halibut or sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard.

(4) Except as provided in §679.5(l)(3), retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is deploying fixed gear, and that is currently held by all IFQ card holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of chapter III of this title and §679.5.

(5) Possess, buy, sell, or transport IFQ halibut or IFQ sablefish harvested or landed in violation of any provision of this part.

(6) Make an IFQ landing without an IFQ card in the name of the individual making the landing.

(7) Possess on a vessel or land IFQ sablefish concurrently with non-IFQ sablefish, except that CDQ sablefish may be possessed on a vessel and landed concurrently with IFQ sablefish.

(8) Discard Pacific cod or rockfish that are taken when IFQ halibut or IFQ sablefish are on board, unless Pacific cod or rockfish are required to be discarded under §679.20 or unless, in waters within the State of Alaska, Pacific cod or rockfish are required to be discarded by laws of the State of Alaska.

(9) Harvest on any vessel more IFQ halibut or IFQ sablefish than are authorized under §679.42.

(10) Make an IFQ landing other than directly to (or by) a registered buyer.

(11) Discard halibut or sablefish caught with fixed gear from any catcher vessel when any IFQ card holder aboard holds unused halibut or sablefish IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating, unless:

(i) Discard of halibut is required as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title;

(ii) Discard of sablefish is required under § 679.20 or, in waters within the State of Alaska, discard of sablefish is required under laws of the State of Alaska; or

(iii) Discard of halibut or sablefish is required under other provisions.

(12) Make an IFQ landing without prior notice of landing and before 6 hours after such notice, except as provided in § 679.5.

(13) Possess processed and unprocessed IFQ species on board a vessel during the same trip except when fishing exclusively with IFQ derived from vessel category A QS;

(14) Any person who is issued a registered buyer permit under § 679.4(d)(2) and who also is required to obtain a Federal processor permit under § 679.4(f) may not transfer or receive sablefish harvested in Federal waters or halibut, unless the person possesses a valid Federal processor permit issued under § 679.4.

(15) Violate any other provision under subpart D of this part.

(16) Process fish on board a vessel on which a person aboard has unused IFQ derived from QS issued to vessel categories B, C, or D, except as provided in § 679.42(k) of this part;

(g) *Research Plan.* (1) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including sorting or discarding any catch before sampling; or tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(3) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties.

(4) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(5) Process or receive fish from a Research Plan fishery without a valid permit issued pursuant to this part.

(6) Deliver fish from a Research Plan fishery to a processor not possessing a valid permit issued pursuant to this part.

(7) Subtract from a billed fee assessment costs paid for observer coverage under provisions of § 679.50 that are based on false or inaccurate information.

(8) Fish for or process fish without observer coverage required under subpart E of this part.

(9) Require an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(h) *Scallop fishery off Alaska.* It is unlawful for any person to violate any provision of subpart F of this part while fishing for scallops in the Federal waters off Alaska.

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§ 679.8 Facilitation of enforcement.

See § 600.740 of this chapter.